

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Zettel Analyst: Marion Mann DeJong Bill Number: AB 149

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 04/04/2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Teacher Retention Credit/Apply also to Credentialed Specialists, Preschool, Prekindergarten, and Adult Education Teachers

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced January 29, 2001.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 29, 2001, STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would extend the teacher retention tax credit to credentialed individuals who provide support services to students (e.g., school psychologists, language specialists, counselors, and school nurses) and to preschool, prekindergarten, and adult education teachers that are credentialed.

## SUMMARY OF AMENDMENT

The April 4, 2001, amendment extended the teacher retention tax credit to preschool, prekindergarten, and adult education teachers that are credentialed.

Except for the "Economic Impact," the department's analysis of the bill as introduced January 29, 2001, still applies. A new "Economic Impact" is provided below. This analysis updates "This Bill," "Implementation Considerations," "Technical Considerations," and "Arguments/Policy Concerns" from the department's prior analysis to reflect the April 4, 2001, amendments.

## POSITION

Pending.

Board Position:

<u>      </u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>      </u> N	<u>      </u> OUA	<u>  X  </u> PENDING

Legislative Director

Date

**J. Brian Putler**

**04/19/01**

## **Summary of Suggested Amendments**

Amendments are needed to clarify the definition of “credentialed specialist.” See “Implementation Considerations” below. Department staff is willing to work with the author to resolve this concern.

Additionally, the department is providing some technical amendments. See “Technical Considerations” below.

## **THIS BILL**

This bill would extend the teacher retention tax credit to credentialed specialists (e.g., school psychologists, language specialists, counselors, and school nurses). A “credentialed specialist” must hold a preliminary or professional clear teacher or service credential and provide direct services to children.

This bill also would expand the definition of “qualifying educational institution” to include preschool and adult education schools that provide education for prekindergarten and adult education or any part thereof.

Thus, this bill would provide the teacher retention credit to all credentialed teachers or credentialed specialists that teach in any preschool, elementary, secondary, vocational-technical, or adult education school located in California.

## **IMPLEMENTATION CONCERNS**

The term “credentialed specialist” and the phrase “provides direct services to children” are unclear and consequently can be subject to more than one interpretation. According to the sponsor, the intent of the bill is to provide a credit for speech therapists, counselors, and nurses but not administrators. However, the bill defines a credentialed specialist as someone with a “service credential.” There are five basic types of service credentials (Education Code Section 44266 to 44270): specialization in pupil personnel services, specialization in health, specialization in clinical or rehabilitative services, services as a library media teacher or librarian, and specialization in administrative services. Every holder of a “service credential,” including a school principal that provides direct services to children, could claim the credit under the language of this bill. Unclear terms and phrases can lead to disputes between taxpayers and the department.

According to staff from the California Commission on Teacher Credentialing, preschool and prekindergarten teachers usually have permits instead of credentials. Such permits are required at state funded preschools. However, teachers at private preschools go through a review process, but are not required to have permits or credentials. This bill would extend the credit only to teachers who are credentialed. This may cause confusion regarding who can claim the credit and could lead to disputes between taxpayers and the department.

Department staff does not possess the expertise to determine what credentials are appropriate for the credit.

Current law limits the amount of the credit to 50% of the tax on the teacher’s wages and salary from teaching. In most cases, wages and salary are subject to federal and state income tax withholding

and reported on Treasury Form W2. If credentialed specialists do not receive W2s reflecting wages and salary for services as a credentialed specialist, determining the availability and amount of the credit for a credentialed specialist may be problematic because it is difficult to determine the amount of wages that are not reported on a W2.

The terms "preschool," "prekindergarten," and "adult education" are not defined. Undefined terms can lead to disputes between taxpayers and the department. Further, it should be noted that current law allows the credit to adult education teachers that teach kindergarten or grades 1 through 12 curricula. Depending on how "adult education" is defined these teachers may already qualify for the credit.

#### TECHNICAL CONSIDERATIONS

On page 2, line 27, the reference to subdivision (d) is incorrect. The correct reference is subdivision (c). Amendment 1 would make this change.

The operative date language being added in subdivision (d) can cause confusion in the future if the credit is amended again. Department staff recommends moving this language to uncodified law. Amendments 2 and 3 would make this change.

#### **ECONOMIC IMPACT**

##### Tax Revenue Estimate

Based on the data and assumptions below, order of magnitude revenue effects are estimated as follows:

Estimated Revenue Impact			
Taxable/Income Years Beginning On or After January 1, 2001			
Enactment Assumed After June 30, 2001			
Fiscal Years			
(In Millions)			
	2001-02	2002-03	2003-04
Specialists	-\$39.0	-\$34.0	-\$37.0
Preschool/ prekindergarten/ adult ed.*	-\$4.1	-\$4.0	-\$4.0
Total	-\$43.1	-\$38.0	-\$41.0

\*This estimate assumes that adult education would mean kindergarten and grades 1 through 12 curricula. If adult education were defined more expansively, the revenue loss would increase.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

### Revenue Estimate Discussion

The revenue impact for the April 4, 2001, amendments would be determined by the number of credentialed teachers and credentialed specialists who teach or provide direct services to children at any preschool or prekindergarten located in the state.

It is projected that for the first tax year, 2001, approximately 390,000 children, ages three to five, will be enrolled in preschool or prekindergarten in California. Assuming a teacher to student ratio of 10:1, approximately 39,000 teachers would be employed at this level. It is projected that 15% or approximately 6,000 of these teachers would be credentialed, taking into account credentialed teachers who taught higher-grade levels in the past but are now teaching at the preschool level. One segment of this population would be retired schoolteachers who are now teaching at a preschool. Based on the projected tenure range of credentialed preschool or prekindergarten teachers, an average credit of \$750 was used for purposes of this estimate.

This estimate assumes that adult education would be defined as kindergarten and grades 1 through 12 curricula. Based on this assumption, adding credentialed teachers that teach adult education would have no revenue impact since such teachers currently qualify for the credit.

The revenue discussion for adding specialists included in the department's analysis of this bill as introduced January 29, 2001, still applies.

### **ARGUMENTS/POLICY CONCERNS**

Proponents argue that support services such as those provided by school psychologists, speech-language specialists, counselors, and school nurses are critical for academic success. Since the shortage of teachers that resulted in the teacher retention credit also exists in the support service professions, teacher recruitment and retention programs should include credentialed school specialists.

This bill would provide the credit to administrators with "service credentials." This group was specifically excluded from the teacher retention credit when the Legislature considered the original legislation.

### **LEGISLATIVE STAFF CONTACT**

Marion Mann DeJong  
Franchise Tax Board  
845-6979

Brian Putler  
Franchise Tax Board  
845-6333

Analyst Marion Mann DeJong  
Telephone # 845-6979  
Attorney Patrick Kusiak

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 149  
As Amended April 4, 2001

AMENDMENT 1

On page 2, line 27, strikeout "(d)" and insert:

(c)

AMENDMENT 2

On page 4, strikeout lines 6 through 8, inclusive.

AMENDMENT 3

On page 4, modify line 9 as follows:

SEC.2. The amendments to Section 17052.2 of the Revenue and Taxation Code made by this act shall apply to taxable years beginning on or after January 1, 2001.

SEC.3. This act provides for a tax levy within the meaning of